

The Northern Long-Eared Bat and the USACE Regulatory Permit Process

By the U.S. Army Corps of Engineers (USACE), Buffalo District

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Introduction:

The northern long-eared bat (*Myotis septentrionalis*) is a small-sized insectivorous bat widely distributed in the eastern United States and across Canada. Due to declines in their population caused by White-Nose Syndrome, the northern long-eared bat was listed as a Threatened species under the Endangered Species Act (ESA) by the United States Fish and Wildlife Service (USFWS) on April 2, 2015. White-Nose Syndrome is a disease that affects hibernating bats and is named for the white fungus that appears on the bats' nose and other areas of the bats. The disease has caused extensive mortality of hibernating bats in eastern North America.

Range of the Northern Long-Eared Bat in the USACE Buffalo District:

The range of the northern long-eared bat includes **all counties** in the USACE Buffalo District Regulatory Program boundaries in both New York and Ohio (see <http://www.lrb.usace.army.mil/Missions/Regulatory.aspx> for a map of the District Boundaries).

Northern Long-Eared Bat Ecology and Habitat Information:

During the summer months (approximately April-August), northern long-eared bats use forested/wooded habitat where the bats roost, forage, and travel. Summer northern long-eared bat habitat may also include adjacent or interspersed non-forested habitats such as emergent wetlands and edges of agricultural land, old fields, or pastures. Potential northern long-eared bat summer roosting habitat includes live or dead trees that are generally ≥ 4 inches diameter at breast height (DBH) with cracked or exfoliating bark, broken limbs, cavities, or crevices. Individual trees may be considered suitable habitat when they exhibit any of the aforementioned characteristics and are located within approximately 1,000 feet of other forested habitat. Northern long-eared bats travel and forage along linear features such as riparian corridors, paths, forest edge, and fence rows, as well as forage along streams, wetlands, and ponds. Potential summer roosting habitat for northern long-eared bats also includes human-made structures, such as buildings, barns, bat houses, and bridges. During the fall months (approximately August-September) prior to hibernation, northern long-eared bats swarm in wooded areas around their hibernacula. In the winter (approximately October-March), northern long-eared bats hibernate in caves and abandoned mines.

Information Needed in USACE Regulatory Permit Application Submittals:

The USACE is required to consider effects to the northern long-eared bat, along with all Federally-listed species, when they are reviewing work or activities requiring a USACE permit. If potential effects to the bat are identified, the USACE is required to coordinate their effects determination with the USFWS. Information that applicants can provide in their application package to streamline the USACE effects determination and coordination are:

- Are trees proposed to be cleared for the project? Will any bridges or other potential roosting structures, e.g. buildings, barns, etc., be impacted?
- What time of year will you be felling trees or disturbing potential roost structures? In general, most, but not all, adverse effects to the bat can be reduced and the overall process quicker if seasonal tree clearing restrictions are implemented (i.e. not disturbing habitat when occupied by bats).
- How many potential roost trees will be cleared (individual trees or acres of trees)? What type of trees (hardwoods or coniferous) and what is the general size of the trees

(Diameter Breast Height -Tree DBH is outside bark diameter at breast height. Breast height is defined as 4.5 feet (1.37m) above the forest floor on the uphill side of the tree.) to be cleared?

- Do the trees being felled contain any cracks, crevices, or loose bark?
- Information on if any presence/absence surveys of the bat have been conducted on the property. For more information on these surveys, contact the local USFWS office, as listed above.

PLEASE NOTE: Since the bat's range is in all counties of the USACE Buffalo District Regulatory Program boundaries and it could be in the vicinity of any applicant's project, **all Nationwide Permit (NWP)** applications in the USACE Buffalo District Regulatory Program boundaries require a **Pre-Construction Notification (PCN)** (see <http://www.lrb.usace.army.mil/Missions/Regulatory/NationwidePermits.aspx> for information on the USACE Buffalo District NWP Program).

Interim 4(d) Rule:

A provision was added to the Threatened listing in an effort to help balance human development and conservation of the species. The rule does not prohibit certain land-impacting activities (exemptions) while the bat may be in their summer habitat provided the **Conservation Measures** listed in the rule are carried out. A Final 4(d) Rule is anticipated later this year.

Interim 4(d) Rule and the USACE Regulatory Permit Process:

Even if the activities authorized by a USACE Regulatory permit may qualify for an exempted activity listed under the Interim 4(d) Rule, the USACE is still required to determine effects on the bat and consult with the USFWS when required. If the USACE determines an "Adverse Affect" on the northern long-eared bat, Formal Consultation must be initiated under Section 7 of the ESA. Once Formal Consultation is initiated with the USFWS by the USACE, the USFWS has up to 125 days to complete their review. Thus, in general, the USACE process has not changed with implementation of the Interim 4(d) Rule issued with the bat's listing.

Current Actions Explored by the USACE Buffalo District in New York to Streamline the Consultation Process:

The USACE Buffalo District is currently working on a Programmatic Biological Opinion with the USFWS in New York to help streamline the consultation process when negative effects are determined. Check back to our Homepage website in the future for more information on our progress on this effort. <http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>.

Further information on the bat or the Interim 4(d) Rule can be found at <http://www.fws.gov/midwest/endangered/mammals/nlba/>. Further questions on the Interim 4(d) rule should be directed to the local USFWS Field Office as listed above.

For more information on other Federally-listed species protected under the ESA: In New York State, please either visit the USFWS Information for Planning and Conservation (IPAC) website, <http://ecos.fws.gov/ipac/>, or contact the USFWS New York Field Office – (607) 753-9699, <http://www.fws.gov/northeast/nyfo/>. In Ohio, we recommend contacting the USFWS Ohio Ecological Services Field Office directly – (614) 416-8993, <http://www.fws.gov/midwest/ohio/index.html>.